

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
DIVISION _____

BEN MOTAL

PLAINTIFF

VS.

CASE NO. _____

CITY OF LITTLE ROCK

DEFENDANT

ARKANSAS FREEDOM OF INFORMATION ACT COMPLAINT
AND REQUEST FOR IMMEDIATE HEARING

COMES NOW, Plaintiff Ben Motal, proceeding *pro se*, and for his Arkansas Freedom of Information Act Complaint and Request for Immediate Hearing against Defendant City of Little Rock (“the City”), does hereby state and allege as follows:

I.

Introduction

The City violated Plaintiff’s rights under the Freedom of Information Act by refusing to allow him to copy a police report using his smart phone.

II.

Parties

A. Plaintiff

1. Ben Motal is an adult citizen and resident of Pulaski County, Arkansas.
2. Mr. Motal brings this appeal as a matter of right under Arkansas Code Ann. § 25-19-107, as he was actually and constructively denied his right to copy a public record, entitling Plaintiff to a hearing in this Court.

B. Defendant

3. The City of Little Rock is a political subdivision of the State of Arkansas. The City is subject to suit under the Freedom of Information Act. *City of Little Rock v. Carpenter*, 288 S.W.3d 647 (Ark. 2008).

III.

Jurisdiction & Venue

4. This is an appeal from a denial of rights under the Freedom of Information Act, Arkansas Code Ann. § 25-19-101, et seq.

5. This Court has subject matter jurisdiction pursuant to Arkansas Code Ann. § 25-19-107(a).

6. Venue lies in Pulaski County because the Defendant is a municipality located within Pulaski County, Plaintiff resides in Pulaski County, and the events leading to this lawsuit occurred entirely within Pulaski County. *See* Ark. Code Ann. § 25-19-107(a).

IV.

Background Facts

7. The preceding paragraphs are incorporated herein as if set forth word for word.

8. Plaintiff was the victim of a hit-and-run car accident on October 27, 2018. The accident was investigated by Little Rock police officers and a report was filed with the Little Rock Police Department.

9. Plaintiff visited the Little Rock Police Department headquarters to inspect and copy the report. Plaintiff was advised by Clem Tate, an agent of the City, that he could inspect the report but would not be allowed to copy the report by taking photographs of the pages with his smart phone. Ms. Tate stated that this was a City policy and that she was not authorized to deviate

from it. Ms. Tate further stated that if the Plaintiff wanted a copy of the report, the police department would make him a copy at the cost of \$10.00. Plaintiff objected to not being allowed to take photographs of the report. He advised Ms. Tate of his right to copy the report with his own device. He refused to pay the \$10.00 demanded by the City.

10. Nonetheless, the City refused to allow Plaintiff to photograph the police report. Plaintiff left the police station without a copy of the report. As of the date of this filing, he has not been able to obtain a copy of the report as a result of the City's denial of his FOIA rights.

V.

Count One: Refusal To Permit Copying of Public Records

11. The preceding paragraphs are incorporated herein as if set forth word for word.

12. Arkansas courts liberally construe the Arkansas Freedom of Information Act to accomplish its broad and laudable purpose that public business be performed in an open and public manner, and courts broadly construe the FOIA in favor of the right of citizens to access and copy public records. *See Fox v. Perroni*, 188 S.W.3d 881 (Ark. 2004).

13. Ark. Code Ann. § 25-19-105(a) provides “[e]xcept as otherwise specifically provided by this section or by laws specifically enacted to provide otherwise, all public records shall be open to inspection and copying by any citizen of the State of Arkansas during the regular business hours of the custodian of the records.” No exception listed in that section is applicable in this case and no law specifically prevents the copying of the records in question.

14. Ark. Code Ann. § 25-19-105(d)(1) provides, “[r]easonable access to public records and reasonable comforts and facilities for the full exercise of the right to inspect and copy those records shall not be denied to any citizen.”

15. The City's violation of the Freedom of Information Act, including but not limited to the provisions set forth herein, is the legal and proximate cause for the Plaintiff's inability to copy the public records in the manner he was legally entitled under Ark. Code Ann. § 25-19-105.

16. The City's actions were unreasonable, arbitrary, capricious, and in bad faith, and were made despite actual knowledge of Plaintiff's rights under the Freedom of Information Act.

VI.

Relief Sought

WHEREFORE, based on the foregoing, the Plaintiff prays that the Court will:

- A) Find that the Defendant failed to comply with the Freedom of Information Act;
- B) Order that the Defendant allow the Plaintiff to copy the public records in question with his own personal device as permitted by state law;
- C) Issue a modified summons that fixes and assesses a day the petition is to be heard within seven (7) days of the date of this application, and hear and determine the case as required by Arkansas Code Ann. § 25-19-107(b);
- D) Grant Plaintiff reasonable legal fees and costs in pursuing this matter; and
- E) Grant all other just and proper relief, whether or not prayed for specifically herein.

Respectfully Submitted,



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